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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,546	11/04/2002	Claire Fraser	PP00365.301	9020
7590 Chiron Corporation Intellectual Property R440 PO Box 8097 Emeryville, CA 94662-8097		EXAMINER DEVI, SARVAMANGALA J N		
		ART UNIT 1645		
		MAIL DATE 05/21/2009		
		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Notice of Allowability****Application No.**

09/674,546

**Applicant(s)**

FRASER ET AL.

**Examiner**

S. Devi, Ph.D.

**Art Unit**

1645

**- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicants' amendment filed 09/11/07.
2. ☒ The allowed claim(s) is/are claim 4 and 22-28 respectively.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of the:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.  
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.  
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.  
**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☒ ~~Notice of Draftsperson's Patent Drawing Review (PTO-948)~~
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ ~~Interview Summary (PTO-413)~~  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

/S. Devi, Ph.D./  
Primary Examiner, Art Unit 1645

May 2009

## **ATTACHMENT TO NOTICE OF ALLOWABILITY**

### **Previous Office Action Vacated**

- 1) The allowance papers mailed 05/14/2009 is hereby vacated and is replaced with the instant Office Action.

### **Applicants' Response**

- 2) Acknowledgment is made of Applicants' response filed 02/19/09 in response to the non-final Office Action mailed 11/13/08.

### **Status of Claims**

- 3) No claims have been amended.  
Claims 4 and 22-28 are pending and are under prosecution.

### **Rejection(s) Withdrawn**

- 4) The rejection of claims 4, 22-26 and 28 made in paragraph 5 of the Office Action mailed 11/13/08 under 35 U.S.C § 103(a) as being unpatentable over the disclosure print out of the 'Contig295' sequence data from the sequence file 1997-12-15-NM.dbs attached to the Parkhill Declaration (Applicants' IDS filed 08/12/08) in view of the printed output from the NCBI open reading frame finder (see attachment), Sambrook *et al.* (*Molecular Cloning, A Laboratory Manual*, Second Edition, Cold Spring Harbor, pages 17.1-17.44, 1989) and Campbell AM (*In: Monoclonal Antibody Technology*. Elsevier Science Publishers, The Netherlands, Chapter 1, pages 1-32, 1984), is withdrawn upon further consideration and in light of Applicants' arguments.
- 5) The rejection of claim 27 made in paragraph 6 of the Office Action mailed 11/13/08 under 35 U.S.C § 103(a) as being unpatentable over the disclosure print out of the 'Contig295' sequence data from the sequence file 1997-12-15-NM.dbs from the Parkhill Declaration (Applicants' IDS filed 08/12/08) as modified by the printed output from the NCBI open reading frame finder (see attachment), Sambrook *et al.* (*Molecular Cloning, A Laboratory Manual*, Second Edition, Cold Spring Harbor, pages 17.1-17.44, 1989) and Campbell AM (*In: Monoclonal Antibody Technology*. Elsevier Science Publishers, The Netherlands, Chapter 1, pages 1-32, 1984) as applied to claim 4 above, is withdrawn upon further consideration and in light of Applicants' arguments.

### Remarks

- 6) Claims 2 and 22-28, now renumbered as claims 1 and 2-8 respectively, are allowed.
- 7) Papers related to this application may be submitted to Group 1600, AU 1645 by facsimile transmission. The Fax number for submission of amendments, responses and/or papers is (571) 273-8300, which receives transmissions 24 hr a day and 7 days a week.
- 8) Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAG or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.Mov>. Should you have questions on access to the Private PAA system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (in USA or CANADA) or 571-272-1000.
- 9) Any inquiry concerning this communication or earlier communications from the Examiner should be directed to S. Devi, Ph.D., whose telephone number is (571) 272-0854. A message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 7.15 a.m. to 4.15 p.m. except one day each bi-week, which would be disclosed on the Examiner's voice mail system.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Robert Mondesi, can be reached on (571) 272-0956.

/S. Devi/  
Primary Examiner  
AU 1645

May, 2009